

IN THE HIGH COURT OF JUDICATURE
ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE J.CHELAMESWAR
and
THE HON'BLE MR JUSTICE D.APPA RAO

WRIT PETITION NO :24494 of 2006

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Dated: 24th November 2006.

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Between:

M/s. V.Prasad Naidu, Nellore.

..... PETITIONER

AND

The Commercial Tax Officer No.I, Nellore and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE J.CHELAMESWAR
AND
THE HON'BLE SRI JUSTICE D.APPA RAO

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W.P.NO.24494 OF 2006

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ORAL ORDER:

(Per the Hon'ble Sri Justice J.Chelameswar)

The petitioner is a proprietary concern engaged in the business of carrying on works contract, registered as a dealer under the A.P.G.S.T. Act (for short 'the Act'), with the 1st respondent. For the assessment year 2000-01, the liability of the petitioner, for the tax under the Act, came to be determined by an assessment order dated 01-02-2002 of the 1st respondent. The 2nd respondent by his proceedings dated 17-04-2006 revised the said assessment, obviously, in exercise of the powers under Section 20(2) of the Act, and came to the conclusion that the petitioner is liable to pay a higher amount of tax than was determined by the assessing authority. Aggrieved by the revision, the petitioner carried the matter in appeal before the Sales Tax Appellate Tribunal, along with an application seeking stay of collection of the balance of the disputed tax. Such an application, as required under law, was filed before the 3rd respondent and the same was rejected by order dated 19-09-2006. Hence, the present writ petition with the prayer as follows:

“ For the reasons stated in the accompanying affidavit the petitioner herein prays that this Hon'ble Court may be pleased to issue a Writ or Order or direction particularly one in the nature of Writ of Mandamus granting stay of collection of the balance disputed tax of Rs.1,43,865/- for the assessment year 2000-2001 under the APGST Act arising in pursuance of the stay rejection orders

of the third respondent dated 19.09.2006 passed in CCT's Ref.No.LV(1)/1269/2006 read with the revision order of the second respondent dated 17.04.2006 pending disposal of the appeal before the Sales Tax Appellate Tribunal or to pass such other or further orders as this Hon'ble Court deem fit and proper in the circumstances of the case."

Heard the learned Government Pleader for the Commercial Tax.

In the circumstances, we are of the opinion that the matter can be disposed of at this stage by directing the respondents not to take any coercive steps for recovery of the balance disputed tax, which is the subject matter of appeals, referred to above, on condition of the petitioner depositing 50% of the disputed tax within a period of six weeks from today. The amount, if any, already paid towards the disputed tax shall be given credit to while computing the abovementioned 50% of the disputed tax.

With the above directions, the writ petition is disposed of at the stage of admission.

J.Chelameswar, J

D.Appa Rao, J

24th November 2006
mrk

